




GST Amnesty Scheme 2024

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GST Interest Penalty Amnesty Scheme - Development

53rd GST Council
[22.06.24] Recommend
for Interest Penalty
Amnesty. Proposal to
insert Sec 128A
inserted.

54rd GST Council
[09.09.24] Recommend
for Rules / Forms / Date
for Interest Penalty
Amnesty.

Section 128A is made
effective from 1st
November 2024 vide
Notification No
17/2024-CT dt 27.09.
2024

Due date for payment
of Tax Demand is
notified as 31.03.2025
as per Notification No
21/2024 CT dt 08.10.24



Form GST SPL 01

- Application for waiver of interest / penalty under section 128A(1)(a) for notice or a statement

Form GST SPL 02

- Application for waiver of interest / penalty under section 128A(1)(b) or (c) for Order

Form GST SPL 03

- Notice in response to an application filed under Section 128A

Form GST SPL 04

- Reply to notice issued under Rule 164(8)

Form GST SPL 05

- Order for conclusion of proceedings as per section 128A

Form GST SPL 06

- Order for conclusion of proceedings as per section 128A

Form GST SPL 07

- Order for Rejection of Application submitted under section 128A

Form GST SPL 08

- Undertaking submitted under rule 164(15)(b)(ii)

Interest Penalty Amnesty Scheme – Sec 128A

■ What is the Scheme

- ✓ Waiver of interest or penalty or both
- ✓ Relating to **demands raised under section 73, [Section 74 is not covered]**
- ✓ For certain tax periods

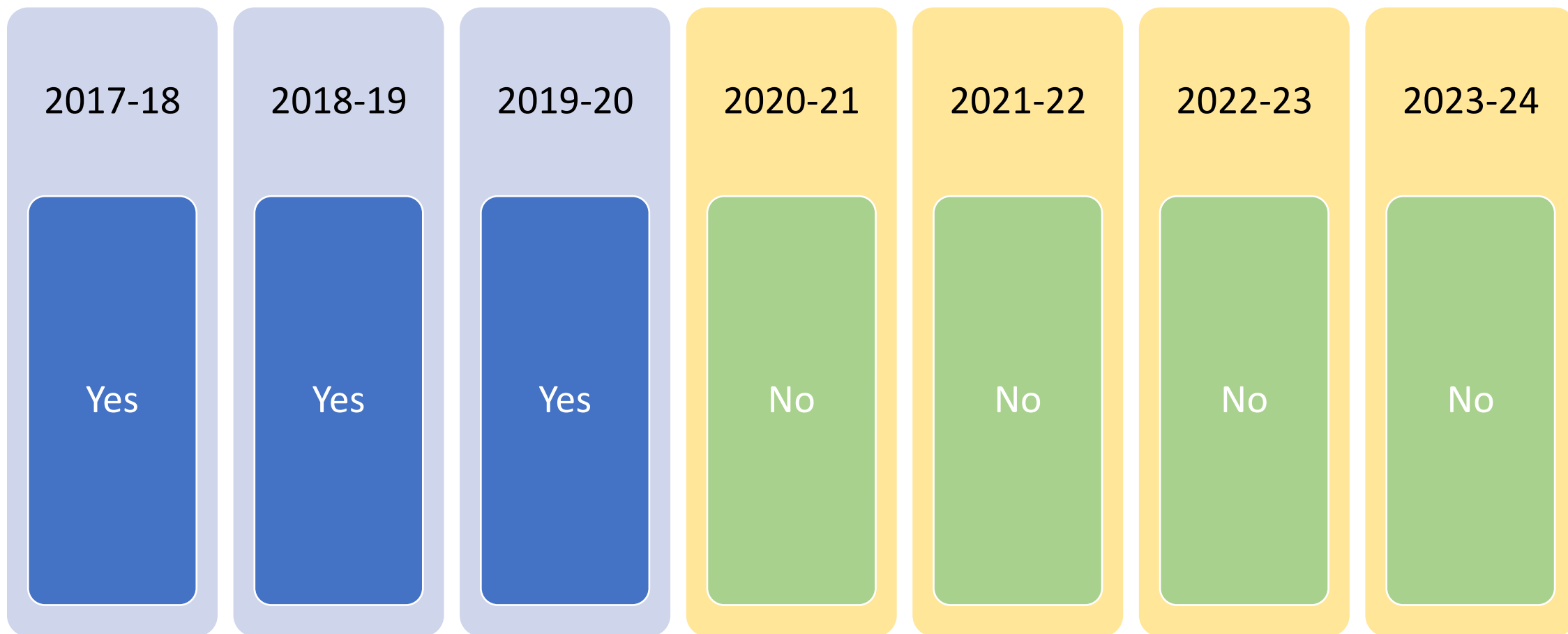
■ Cases Covered [Section 128(1)] :

- a) Section 128(1)(a) → **Notice/Statement issued** u/s 73(1) / 73(3) **but Order** u/s 79(9) **is not passed**
- b) Section 128(1)(b) → **Order issued** u/s 73(9) **but No Order** u/s 107(11) / 108(1)
- c) Section 128(1)(c) → **Order issued** u/s 107(11) / 108(1) but No Order u/s 113(1)

■ Period Covered: July 2017 to March 2020

Interest Penalty Amnesty Scheme – Sec 128A

- **Period Covered:** July 2017 to March 2020



Interest Penalty Amnesty Scheme – Sec 128A

■ Coverage

Outward Liability	RCM Liability	ITC Demand	Erroneous Refund	Demand under Sec 74
Yes	Yes	Yes	No	No

Interest Penalty Amnesty Scheme – Sec 128A

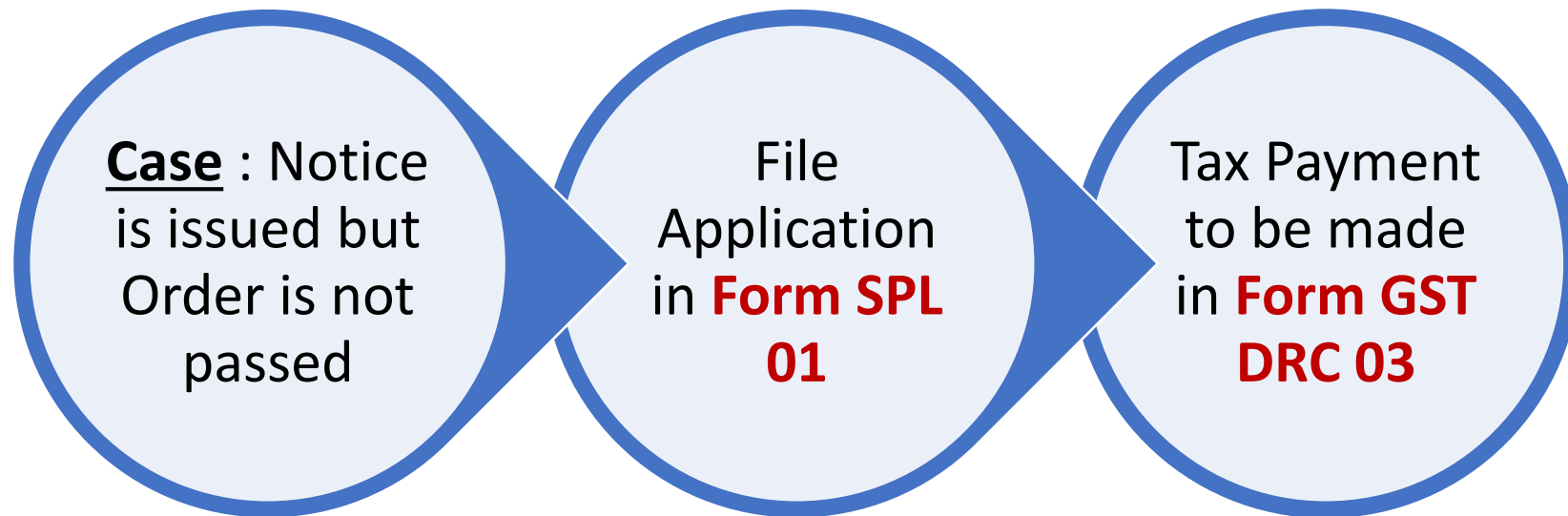
▪ **Condition**

- ✓ Person pays the full amount of tax payable as per the notice / statement / the order, on or before the date notified [For normal cases, due date for payment is 31.03.2025 as per Notification No 21/2024 CT dt 8th Oct 2024]
- ✓ Withdrawal of Appeal / Write (if any filed) is compulsory before applying for amnesty scheme.

- **Where such interest and penalty has already been paid**, no refund of the same shall be available
- Where proceedings under section 128A is concluded, appeal against said amnesty order is not allowed.
- Section 128A is inserted vide Finance Act (No 2) 2024 with effect from 1st November 2024 vide Notification No. 17/2024–Central Tax dated 27th September 2024

Procedure for Applying Amnesty – Rule 164

- **Rule 164(1)** : Case where Notice is issued but Order is pending [Section 128(1)(a)]



Procedure for Applying Amnesty – Rule 164

- **Rule 164(2)** : Case where Order is passed but Order of First Appellate Authority / Appellate Tribunal is pending
[Section 128(1)(b) / (c)]

Case : Where Order is passed but Order of First Appellate Authority / Appellate Tribunal is pending

File Application in **Form SPL 02**

Payment towards such tax demanded shall be made only by **crediting the amount in electronic liability** register against the debit entry created by the said order

If the payment towards such tax demanded has been made through DRC-03, an application in FORM DRC-03A (as per Rule 142(2B), shall be filed by the said person for credit of the said amount in the Electronic Liability Register against the debit entry created for said demand, before filing the application in FORM GST SPL 02

ADVISORY FOR WAIVER SCHEME UNDER SECTION 128A

Nov 8th, 2024

For reducing the tax disputes and to provide a big relief to the taxpayers, GST Council in its 53rd meeting held on 22nd June, 2024 had recommended for waiver of interest and penalties in the demand notices or orders issued under Section 73 of the CGST Act, 2017 (i.e. the cases not involving fraud, suppression or wilful misstatement, etc.) for the Financial years 2017-18, 2018-19 and 2019-20. To avail this waiver, the condition is that the full tax demanded is paid on or before 31.03.2025.

In view of the above, Rule 164 of CGST rules, 2017 was notified through *Notification No. 20/2024 dated*, 8th October 2024, effective from 1st November 2024. This rule provides procedural guidelines for the said waiver scheme. As per the waiver scheme, if a notice or order is issued under Section 73 for the financial years 2017-18, 2018-19 and 2019-20, the taxpayers are required to file an application in FORM GST SPL-01 or FORM GST SPL-02, respectively on the common portal within three months from notified date, which is 31.03.2025.

In this regard it is to inform that Form GST SPL-01 and Form GST SPL-02 are under development and same will be made available on the common portal tentatively from the first week of January 2025. In the meantime, taxpayers are advised to pay the tax amount demanded in the notice, statement, or order issued under Section 73 on or before March 31st, 2025, to ensure that they receive the waiver benefits by paying their taxes before the deadline.

Taxpayer can pay the demanded tax amount through the “payment towards demand” facility in case of demand orders and through Form GST DRC-03 in case of notices. However, if payment has already been done through Form GST DRC-03 for any demand order then taxpayer need to link the said Form GST DRC 03 with such demand order through Form GST DRC-03A, which is now available on the common portal.

GSTN Advisory
Dated 8th
November 2024

Advisory for Form GST DRC-03A

Nov 5th, 2024

1. It has been observed that some taxpayers have paid the demanded amount vide DRC 07/DRC 08/MOV 09/MOV 11/APL 04 through DRC-03 instead of using payment facility 'Payment towards demand' available on GST portal. This led to a situation where demand has been paid by the taxpayer, however the demand is not closed in the electronic liability register. To address this issue, the government has notified a new form named GST DRC-03A which was notified vide Notification No. 12/2024 dated. 10th July 2024.

2. Accordingly, GSTN has developed the new Form GST DRC-03A on GST portal which is available now to adjust the paid amount through DRC-03 against the corresponding demand order. Therefore, it is advised to the taxpayers to use the DRC-03A form to link the payment made vide DRC-03 with the demand order. Only DRC-03 forms where the cause of payment is either 'Voluntary' or 'Others' can be used in the Form GST DRC-03A.

3. Taxpayers will be required to enter the ARN of the DRC-03 along with the relevant demand order number on the portal. Upon entering the ARN and selecting the demand order number of any outstanding demand, the system will auto-populate relevant information of the DRC-03 form as well as from the specified demand order against which the payment is to be adjusted.

4. Once the adjustment is made, corresponding entries will automatically be posted in the taxpayer's liability ledger to reflect the updated status of demands.

5. For detailed process, please click on [Detailed Advisory](#).

6. Taxpayer may refer to the [FAQs](#) on the same topic.

7. In case taxpayers face any technical issue, a ticket shall be raised under category 'DRC-03A-Filing' on Grievance Redressal Portal: <https://selfservice.gstsystem.in>

GSTN Advisory
Dated 5th
November 2024

Other Aspect of Amnesty Scheme – Rule 164

- **Notice / Order includes demand towards Erroneous Refund [Rule 164(3)]** –Where the notice / order mentioned includes demand of tax, partially on account of erroneous refund and partially for other reasons, an application may be filed only after **payment of the full amount of tax demanded** in the said notice /order, on or before the date notified under the said sub-section
- **Notice / Order includes demand towards Different Period [Rule 164(4)]** – Where the notice / order includes demand of tax, partially for the period mentioned in Section 128A(1) (that is 1.7.2017 to 31.3.2020) and partially for the period other than that mentioned in the said sub-section, an application may be filed only after **payment of the full amount of tax demanded** in the said notice /order, on or before the date notified under the said sub-section.
- **Relief provided for ITC Time barring case [Rule 164(5)]** – The amount payable shall be the amount that remains payable, after deducting the amount not payable in accordance with Section 16(5) / Section 16(6), from the amount payable in terms of the notice / order under section 73

Other Aspect of Amnesty Scheme – Rule 164(17)

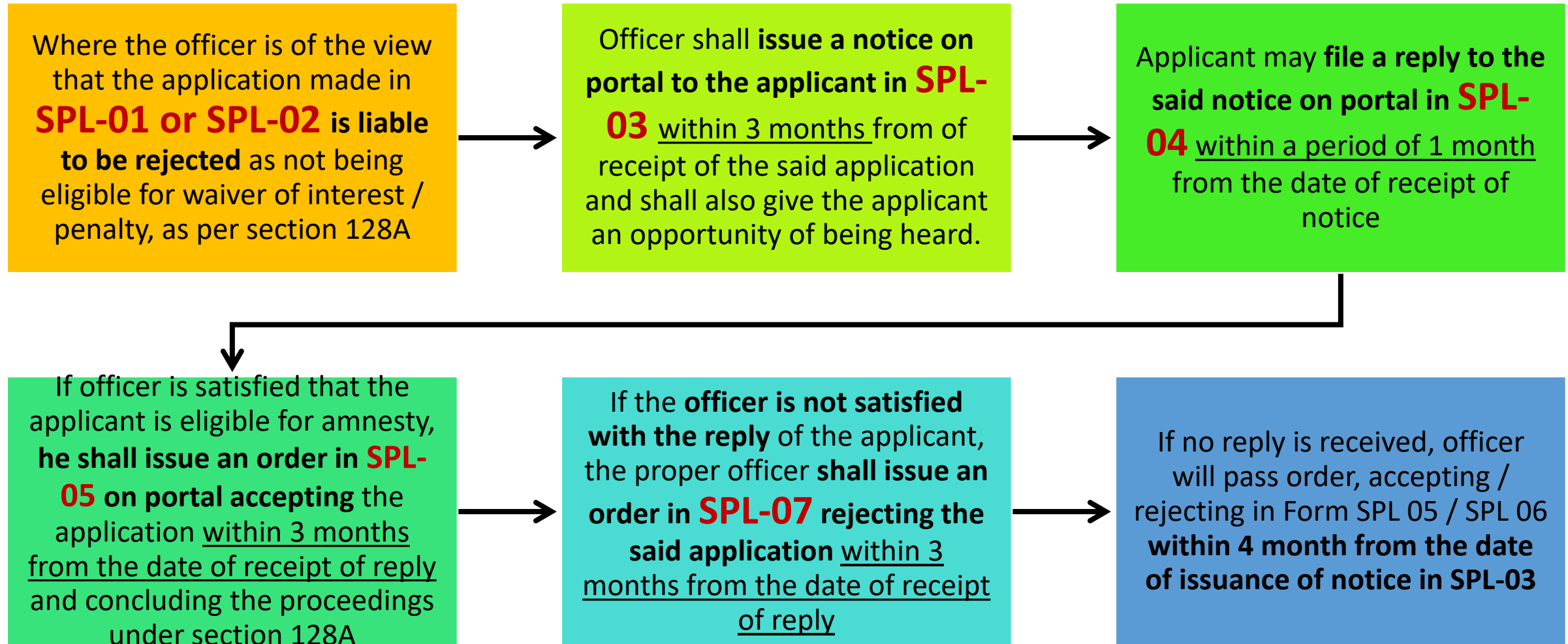
- **Cases where demand includes period not covered or Erroneous Refund:**
 - ✓ In cases where the taxpayer is required to pay any amount of interest /penalty, in respect of any demand pertaining to erroneous refund or on account of demand pertaining to the period other than the period mentioned in Section 128A(1), and
 - ✓ The details of such amount have been mentioned in FORM GST SPL-05 or FORM GST SPL-06,
 - ✓ The applicant shall pay the said amount of interest /penalty , within a period of 3 months from the date of issuance of the order in FORM GST SPL-05 or FORM GST SPL-06, as the case may be, and
 - ✓ Where the said amount is not paid within the said time period, the waiver of interest / penalty, under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-06, shall become void.

Other Aspect of Amnesty Scheme – Rule 164

- **Time for filing Application for Amnesty** [Rule 164(6)] –Where Any person who wishes to file an application, may do so within a period of 3 months from the date notified under section 128A(1). [that is 3 months from 31st March 2025]
- **Document for Withdrawal of Appeal / Writ** [Rule 164(7)] –The application under shall be accompanied by documents evidencing withdrawal of appeal / writ petition, if any, filed before any Appellate Authority, or Tribunal or Court.
- ✓ Provided that where the order for withdrawal has not been issued by the concerned authority till the date of filing of the application, the applicant shall upload the copy of such application filed for withdrawal of the said appeal / writ petition and shall upload the copy of the order for withdrawal of the said appeal /writ petition on the portal, within one month of the issuance of the said order for withdrawal by the concerned authority.



Rejection of Application for Amnesty Scheme – Rule 164(8) to 164(



Other Aspect of Amnesty Scheme – Rule 164

- **Order under Amnesty** [Rule 164(11)] –If the proper officer is satisfied that the applicant is eligible for waiver of interest and penalty as per section 128A, he shall issue an order in FORM GST SPL-05 on portal accepting the said application and concluding the proceedings under section 128A.

Where, Order in Form GST SPL 05 is issued in case of Notice / Statement [SPL 01 case] ➔	The summary of order in FORM GST DRC-07 as per Rule 142(5) shall not be required to be issued by the officer, in respect of the said notice /statement
Where, Order in Form GST SPL 05 is issued in case of Order [SPL 02 case] ➔	The liability created in the part II of Electronic Liability Register, shall be modified accordingly.

- **Officer to close the application within 3 months if no query** [Rule 164(13)] - In cases where notice in FORM GST SPL-03 has not been issued, the proper officer shall issue the order under Rule 168(10) **within a period of 3 months from the date of receipt of the application** SPL-01 /SPL-02 as the case may be.

Deemed Acceptance of Amnesty Application – Rule 164(14)

- ✓ If no order is issued by the proper officer within the time limit [within 3 months of receipt of application if no query from officer or within 3 months from reply filed by applicant to notice of officer in SPL 03] ,
- ✓ Then the application in FORM GST SPL-01 or FORM GST SPL-02 , as the case may be, shall be deemed to be approved and the proceedings shall be deemed to be concluded.



Auto Restoration of Original Appeal on Rejection of Amnesty Application – Rule 164(15)(a)

- ✓ In cases where no appeal is filed against the order in FORM GST SPL-07 [that is Rejection Order of Amnesty]
- ✓ Within the time period specified in Section 107(1) [that is within 3 months from rejection order],
- ✓ **The original appeal**, if any, filed by the applicant against the order, and withdrawn for filing the application in FORM GST SPL-02 in accordance with section 128A(3), **shall be restored**

Appeal against Rejection of Amnesty Application – Rule 164(15)(b)

- In cases where an appeal is filed against the order in FORM GST SPL-07 for rejection of application for waiver of interest, or penalty, or both, if—
 - i) **Appellate authority has held that the proper officer has wrongly rejected** the application for waiver of interest /penalty, or both, in SPL-07 , the said appellate authority shall pass an order in FORM GST SPL-06 on portal accepting the said application and concluding the proceedings under section 128A; or
 - ii) **Appellate authority has held that the proper officer has rightly rejected** the application for waiver of interest / penalty, or both, in SPL-07 , **the original appeal**, if any, filed by the applicant against the order mentioned in section 128A(1), and withdrawn for filing the application in FORM GST SPL-02 as per section 128A(3) ,**shall be restored**, subject to condition that the applicant files an undertaking electronically on the portal in FORM GST SPL-08 , within a period of 3 months from the date of issuance of the order by the appellate authority in FORM GST APL-04, that he has neither filed nor intends to file any appeal against the said order of the Appellate Authority.

REDETERMINATION OF NOTICE UNDER SECTION 74 TO SECTION 73

3.1.5 The application in FORM GST SPL-01 or FORM GST SPL-02, as the case may be, shall be filed within a period of three months from the date notified under section 128A (1), i.e., within three months from 31.03.2025. However, as per the first proviso to sub-section (1) of Section 128A, where a notice has been issued under section 74, and the Appellate Authority or Appellate Tribunal or a court directs the proper officer to redetermine the tax as if the demand notice is issued under section 73, in accordance with the provisions of section 75(2), then same is covered under clause (b) of sub-section (1). Therefore, as mentioned in proviso to sub-rule (6) of Rule 164, in such cases, an application in FORM GST SPL-02, can be filed within six months from the date of communication of order of the proper officer redetermining the amount of tax to be paid under section 73.

Where applications are filed in respect of cases referred to in the first proviso to sub-section (1) of section 128A, then the applicants shall be required to make the payment on or before the date notified under section 128A (1) specifically for those cases, i.e., within six months of the communication of the order of the proper officer redetermining the amount of tax to be paid under section 73.

- **One Application for One Notice/Order**

3.1.7 It may be noted that, in case the taxpayer has been issued multiple notices/ statements/ orders pertaining to demands under section 73, for period from July 2017 to March 2020, **he is required to file a separate application in FORM GST SPL-01 or FORM GST SPL-02, as the case may be, in respect of each of the concerned notice/ statement/ order.**



■ Payment of Tax

3.2.1 With respect to a notice or statement referred to in clause (a) of sub-section (1) of Section 128A, i.e., a notice or statement that is yet to be adjudicated, the payment towards the tax demanded in the said notice shall be made by the taxpayer through FORM GST DRC-03.

3.2.2 With respect to an order referred to in clause (b) and clause (c) of sub-section (1) of Section 128A, the payment towards such tax demanded shall be made by the taxpayer, only by the making the payment against the debit entry created in the Part II of the Electronic Liability Register (ELR) by the demand order. In this regard, the procedure mentioned in para 4 of Circular No. 224/18/2024 -GST dated 11th July 2024 may be referred to. However, in cases where the payment towards tax demanded in the demand order has already been made through FORM GST DRC-03, the procedure prescribed in rule 142(2B) may be followed. In such cases,

4. In order to facilitate the taxpayers to make the payment of the amount of pre-deposit as per sub-section (8) of section 112 of CGST Act, and to avail the benefit of stay from recovery of the remaining amount of confirmed demand as per sub-section (9) of section 112 of CGST Act, it is hereby clarified that in cases where the taxpayer decides to file an appeal against the order of the appellate authority and wants to make the payment of the amount of pre-deposit as per sub-section (8) of section 112 of CGST Act, he can make the payment of an amount equal to the amount of pre-deposit by navigating to **Services >> Ledgers>> Payment towards demand**, from his dashboard. The taxpayer would be navigated to Electronic Liability Register (ELL) Part-II in which he can select the order, out of the outstanding demand orders, against which payment is intended to be made. The amount so paid would be mapped against the selected order and demand amount would be reduced in the balance liability in the aforesaid register. The said amount deposited by the taxpayer will be adjusted against the amount of pre-deposit required to be deposited at the time of filing appeal before the Appellate Tribunal.

- **Rectification not required for Demand due to ITC Time Barring**

3.2.4 In cases where the amount of tax payable as per the notice/ statement/ order includes the amount that was demanded due to contravention of provisions of sub-section (4) of section 16, which is however not payable anymore due to the retrospective insertion of sub-section (5) and sub-section (6) to section 16, the full amount of tax payable as per the notice/ statement/ order as mentioned in sub-section (1) of section 128A for eligibility of waiver of interest or penalty or both shall be calculated after deducting the amount, which is not payable anymore as per sub-sections (5) or sub-section (6) of section 16, as per sub-rule (5) of Rule 164. In this regard, it is also to be mentioned that, where the taxpayer is deducting the amount of input tax credit which was denied on account of contravention of sub-section (4) of section 16, but which is now available as per retrospectively inserted provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, he is not required to file an application for rectification for the same in terms of the special procedure notified under section 148 vide notification No. 22/2024-Central tax dated 8th October 2024.

- **Proper Officer for Processing Amnesty Application**

3.3.1 The proper officer for processing the application for waiver of interest or penalty or both under Section 128A, would be the proper officer to issue the order under section 73, in case the application is filed in FORM GST SPL-01, and would be the proper officer for recovery under Section 79, in case the application is filed in FORM GST SPL-02.

- **Revisionary Application filed by Department**

3.3.7 It is also to be mentioned that as per the second proviso to sub-section (1) of Section 128A, the conclusion of proceedings against a demand notice/ statement/ order under this section and further issuance of such conclusion order in FORM GST SPL-05 or in FORM GST SPL-06, as the case may be, in cases where the department had filed an application/ initiated revisional proceedings against the said demand notice/ statement/ order, is conditional upon the payment of additional tax payable, if any, as determined by the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months of issuance of such order. In case, such additional tax is not paid within the specified time limit, then as per sub-rule (16) of Rule 164, the waiver of interest or penalty or both provided under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-06, as the case may be, shall become void.

■ Other Demand for which Amnesty is not available

3.3.9 Where it is found that any amount of interest and penalty is payable by the applicant on account of some demand pertaining to the period other than the period mentioned in sub-section (1) of section 128A or pertaining to demand of erroneous refund, the detail of the same shall be mentioned in column no. 19 and column no. 20 of FORM GST SPL-05 or FORM GST SPL-06, as the case may be. Further, in such cases, an opportunity of personal hearing may be granted to the applicant, before issuance of order in FORM GST SPL-05 or FORM GST SPL-06.

3.3.10 In cases referred in para 3.3.9, the applicant is required to pay the amount of interest or penalty or both, detailed in column no. 19 and column no. 20 of FORM GST SPL-05 or FORM GST SPL-06, within a period of three months from the date of issuance of the said order in FORM GST SPL-05 or FORM GST SPL-06, as the case may be. In case where the said amount is not paid within the period of three months from the date of issuance of the said order in FORM GST SPL-05 or FORM GST SPL-06, as the case may be, the waiver of interest or penalty or both under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-06, shall become void, as per sub-rule (17) of rule 164.

■ Appeal against Amnesty Order

3.4.1 No appeal shall lie under section 107, against an order issued in FORM GST SPL-05 concluding the proceedings under section 128A. The order issued in FORM GST SPL-07, rejecting the application for waiver, shall be, however, appealable in accordance with sub-section (1) of section 107 within the time limit specified therein, by filing an application in FORM GST APL-01. In such cases, normally, no pre-deposit may be required to be paid by the taxpayer for filing the said appeal, as the said amount may already have been paid as a part of payment of tax dues involved in the demand notice/ statement / order before filing an application in FORM GST SPL-01 or FORM GST SPL-02. However, in cases where no amount of tax dues has been paid or amount of tax dues paid is less than the requisite amount for pre-deposit for filing appeal as per sub-section (6) of section 107, the remaining amount of pre-deposit will be required to be paid for filing the said appeal.

▪ **Tax Paid before section 128A came into effect**

S. No.	Issue	Clarification
1	Whether the benefit provided under Section 128A will be applicable to taxpayers who have paid the tax component in full before the date on which the said section has come into effect?	In this regard, it is to be mentioned that all such amount paid towards the said demand upto the date notified under sub-section (1) of section 128A, irrespective of whether the said payment has been done before Section 128A comes into effect, or after that, and irrespective of whether such payment was made before the issuance of the demand notice or demand order, or after that, shall be considered as paid towards the amount payable in sub-section (1) of Section 128A, as long as the said amount has been paid upto the date notified under sub-section (1) of section 128A and was intended to be paid towards the said demand.

▪ **Can recovered of Interest / Penalty made earlier be adjusted against Tax Demand**

3	Whether the amount recovered by the tax officers as interest or penalty or both, pertaining to demand under Section 73 pertaining to Financial Years 2017-18, 2018-19 and 2019-20, can be adjusted against the tax amount payable towards the demand made under Section 73 pertaining to the said financial years?	<p>No. It is mentioned that as per the third proviso to sub-section (1) of section 128A, no refund of such amount of interest or penalty or both, is available.</p> <p>Accordingly, any amount paid by the taxpayer or recovered by the tax officers, as interest or penalty cannot be adjusted towards the amount payable as tax.</p>
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▪ **Demand in Notice / Order pertains to only Interest / Penalty**

4	Whether the benefit provided under Section 128A will be applicable in cases, where the tax due has already been paid and the notice or demand orders under Section 73 only pertains to interest and/or penalty involved?	<p>Where the tax due has already been paid and the notice or demand orders under Section 73 only pertains to interest and/or penalty involved, the same shall be considered for availing the benefit of section 128A.</p> <p>However, the benefit of waiver of interest and penalty shall not be applicable in the cases where the interest has been demanded on account of delayed filing of returns, or delayed reporting of any supply in the return, as such interest is related to demand of interest on self-assessed liability and does not pertain to any demand of tax dues and is directly recoverable under sub-section (12) of section 75.</p>
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■ **Is Benefit of Partial Amnesty available for part of demand ?**

5	Whether the benefit under Section 128A is available, if the taxpayer intends to avail partial waiver of interest or penalty or both, on certain issues, by making part payment of the amount demanded in the notice/ statement/ order, as the case may be, and opts to litigate for the remaining issues?	<p>No.</p> <p>Section 128A (1) clearly provides that the waiver of interest or penalty or both is only applicable when the full amount of tax demanded in the notice/ statement/ order is paid.</p>
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▪ **How benefit of Amnesty is available if Notice involve multiple period**

6	<p>Where the notice/order involves multiple periods, ranging from the period for which waiver provided in Section 128A is applicable, and includes some other tax periods for which such waiver is not applicable, whether the benefit of waiver of interest or penalty or both under Section 128A can be availed for the period covered under section 128A?</p> <p>If so, what is the tax amount payable for claiming waiver under Section 128A?</p>	<p>The taxpayer is eligible to apply for waiver of interest or penalty or both, in such cases where the demand notice/ order spans tax periods covered under Section 128A and those not covered under the said section.</p> <p>However, as per sub-rule (4) of Rule 164, the taxpayer shall be required to pay the full amount of tax demanded in the notice/ statement/order, as the case may be, to avail the benefit of waiver of interest or penalty or both under Section 128A.</p> <p>Further, though the amount of tax demanded shall be required to be paid as per the notice/statement/order, as the case may be, for whole of the period covered under the said notice/statement/order, but the waiver of interest or penalty or both under section 128A shall only be applicable for the period specified in section 128A, and not for the period not covered under the said section.</p> <p>On payment of the full amount demanded in the notice/statement/order, if the proper officer finds that the applicant is eligible for waiver of interest or penalty or both for tax periods covered under Section 128A, he will reduce the liability to that extent in his order in FORM GST SPL-05, and the remaining liability of interest or penalty or both for tax periods not covered under Section 128A, remains payable by the taxpayer.</p> <p>The said amount shall be required to be paid by the applicant within three months from the date of issuance of order in FORM GST SPL-05 or FORM GST SPL-06, as the case may be. If the said amount is not paid within the time limit as mentioned above, the order in FORM GST SPL-05 or FORM GST SPL-06, as the case may be, the waiver of interest or penalty or both under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-06, shall become void, as per sub-rule (17) of rule 164.</p>
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▪ **Order enhancing the liability passed by AA**

8	<p>In cases where department has filed an appeal against the order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A and the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, has issued an order enhancing the tax liability, and in the meanwhile the proper officer has issued an order in FORM GST SPL-05 under section 128A, and the taxpayer has not paid the said additional amount of tax liability within the specified time limit, what will be the status of the conclusion of proceedings under Section 128A?</p>	<p>Yes, as per the second proviso to section 128A, the conclusion of proceedings in such cases is subject to the condition that the said person pays the additional amount of tax payable, if any, in accordance with the order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months from the date of the said order.</p> <p>Accordingly, it becomes clear that even in cases where an order in FORM GST SPL-05 or in FORM GST SPL-06 has been issued the conclusion of the said proceedings will be subject to the condition that the taxpayer pays the additional tax amount as determined by the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority by an order issued in the matter of appeal filed by the department, within a period of three months from the date of the such order enhancing the tax liability.</p> <p>In case such additional payment is not done within a period of three months from the date of the said order, then as per sub-rule (16) of Rule 164, the waiver of interest or penalty or both under section 128A as per the order issued in FORM GST SPL-05 shall become void.</p>
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- Demand for Transitional ITC

Therefore, it is mentioned that if the amount of transitional credit has been availed in the period covered under Section 128A and notice for demand of wrongly availed credit is issued under section 73, the same is covered under Section 128A.

▪ **Amnesty available for Demand of Late Fees ?**

12	Whether Section 128A will cover waiver of penalties under other provisions, late fee, redemption fine etc?	<p>It is clarified that any penalty, including penalties under section 73, section 122, section 125 etc, demanded under the demand notice/ statement/ order issued under section 73, is covered under the waiver provided under Section 128A.</p> <p>However, late fee, redemption fine etc are not covered under the waiver provided under Section 128A.</p>
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▪ **Whether tax demand can be paid through ITC for the purpose of availing Amnesty?**

13	Whether payment to avail waiver under Section 128A can be made by utilizing ITC?	<p>Yes.</p> <p>The payment of tax required to be made for eligibility for waiver under section 128A is the amount of tax demanded in the notice/ statement/ order. Therefore, it can be paid either by debiting from electronic cash ledger or by utilising the Input Tax Credit (ITC), by debiting the electronic credit ledger, or partly from both.</p> <p>However, where the demand is in respect of any amount of tax to be paid by the recipient under Reverse Charge Mechanism or by the Electronic Commerce Operator under section 9(5), then the said amount shall be required to be paid by debiting the electronic cash ledger only and not through the electronic credit ledger. Further, where the amount has to be paid for demand of erroneous refund, the demand in respect of erroneous refund paid in cash is required to be paid only by debiting the electronic cash ledger only and not through the electronic credit ledger.</p>
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▪ **Adjustment of DRC 03 by DRC 03 A**

16	In case of application in FORM GST SPL-02, where the applicant has paid full or partial amount of tax through FORM GST DRC-03, whether the said applicant is mandatorily required to file application in FORM GST DRC-03A for such tax amount which he desires to get adjusted against tax demand as per FORM GST DRC-07/ FORM GST DRC-08/ FORM GST APL-04?	<p>Yes.</p> <p>In cases where order in FORM GST DRC-07, FORM GST DRC-08 or FORM GST APL-04, as the case may be, has been issued and such taxpayer has paid required amount through FORM GST DRC-03, such applicant is required to adjust the said amount towards the demand created in the Electronic Liability Register, as per the second proviso to sub-rule (2) of rule 164, before filing the application in FORM GST SPL-02.</p>
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Thank You.

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